

# Notice of Allowability

Application No.

10/771,077

Examiner

Allison M. Ford

Applicant(s)

ERBE ET AL.

Art Unit

1651

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephonic interview of 19 October 2006 w/ Stephanie Barbosa (applicant's representative).
2. ☒ The allowed claim(s) is/are 32-43, 63-66, 68-71 and 73-79.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 10/19/2006
- ☒ Examiner's Amendment/Comment
- ☐ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephanie Barbosa on 19 October 2006.

The application has been amended as follows:

Pleas re-write claim 32 as follows:

-- Claim 32. A biocompatible bone graft material comprising a homogenous composite of biocompatible, resorbable collagen and calcium phosphate, the biocompatible bone graft having macro-, meso-, and microporosity. --

Please re-write claim 35 as follows:

-- Claim 35. The bone graft material of claim 34 wherein said phosphate and collagen have a mass ratio of about 85:15 to about 75:25. --

Please re-write claim 63 as follows:

-- Claim 63. A bone graft for long bone reinforcement in the form of a sleeve, the graft comprising a homogenous composite of biocompatible, resorbable collagen and calcium phosphate, the graft having macro-, meso-, and microporosity.--

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Please re-write claim 64 as follows:

-- The bone graft of claim 63 further comprising a mesh affixed to a surface of the sleeve.--

Please re-write claim 65 as follows:

-- Claim 65. The bone graft of claim 64 wherein said mesh is immersed in the graft. --

Please re-write claim 68 as follows:

-- Claim 68. The bone graft of claim 63 wherein the calcium phosphate and collagen are in a mass ratio of about 90:10 to about 70:10.--

Please re-write claim 69 as follows:

-- Claim 69. The bone graft of claim 63 wherein the calcium phosphate and collagen are in a mass ratio of about 85:15 to about 75:25.--

Please add new claim 79 as follows:

-- Claim 79. The bone graft of claim 63, wherein the calcium phosphate is beta-tricalcium phosphate.--

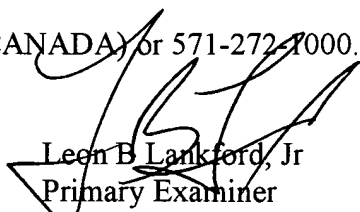
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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allison M. Ford whose telephone number is 571-272-2936. The examiner can normally be reached on 7:30-5 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leon B. Lankford, Jr.  
Primary Examiner  
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